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09/848,262	05/04/2001	Justin Charles Moodie	11266/113	6301

23838 7590 10/31/2007  
KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON, DC 20005

EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3622

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10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/848,262  
Filing Date: May 04, 2001  
Appellant(s): MOODIE ET AL.

**MAILED**

OCT 31 2007

**GROUP 3600**

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Delano Jordan  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/3/2007 appealing from the Office action mailed 11/16/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,729,693

HOLDA-FLECK

03-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-17 and 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holda-Fleck (5,729,693 hereinafter Holda-Fleck).

With respect to claims 1, 4, 14, 15, Holda-Fleck teaches receiving a voucher carrying a voucher code (col. 4, lines 14-20); inputting the voucher code to a terminal (col. 4, lines 28-35); and transmitting the voucher code from the terminal over a network to a predetermined network address (col. 4, lines 44-63).

Holda-Fleck doesn't specifically teach that the terminal/telephone is mobile and that the network is a wireless network. Official notice is taken that it is old and well known for terminal to be mobile and for network to be wireless network because such a modification would allow convenience to the users by overcoming the need to attach cables or the like. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the telephone of Holda-Fleck to be mobile and to be part of a wireless network in order to achieve the above advantages.

With respect to claim 2, Holda-Fleck further teaches transmitting an address of the terminal on the network to the predetermined network address (col. 4, lines 22-24).

With respect to claim 3, Holda-Fleck further teaches that the address of the terminal is automatically transmitted with the voucher code (col. 4, lines 22-24).

With respect to claims 5, 6, 28-31 Holda-Fleck further teaches receiving a message stating the number of points or discounts in the respective user's account after addition of the value of the voucher (col. 5, lines 26-32).

Claims 7-9, 16, 32-36, further recite including a question, inputting an answer to the question and transmitting the answer to a network address and letting the users know if the answer was incorrect. Official notice is taken that it is old and well known in marketing and the like for the users to be asked certain questions about a product or service and based on the users answers issuing points, coupons or discounts on products or services pertaining to the users interests. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a question, inputting an answer to the question and transmitting the answer to a network address and receiving points in order to obtain the above mentioned advantage.

Claims 10-13, 17 further recite a password and logging into a server over the network using said password to receive a reward. Official notice is taken that it is old and well known to use passwords or the like to log into a server to receive awards or the like because such a modification would allow only authorized users to receive rewards. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included including a password and logging into a server over the network using said password to receive a reward in order to obtain the above mentioned advantage.

**(10) Response to Argument**

With respect to claim 28, Appellant argues that Holda-Fleck does not disclose adding points value derived from a voucher code to a user account. The Examiner wants to point out that the claim calls for “adding points value” and the claims do not exclude using rebate amounts, usual currency or credits as points value and therefore, the Examiner has interpreted “adding points value” as any form of value or credit that is added to the user account and this is taught by Holda-Fleck, Figure 2, which teaches that if the look up rebate amount for product code or voucher code is correct then it **credit purchaser’s account**. Therefore, contrary to Appellant’s arguments, Holda-Fleck clearly teaches adding value (i.e. credit) derived from a voucher code (i.e. product code) to a user account (i.e. purchaser’s account).

With respect to claims 1, 14-17 and 28, the recitation “a scheme in which accumulated points are redeemable for rewards” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The Examiner wants to point out that Appellant is arguing features that are only present in the preamble and the body of the claims do not refer back or mention “rewards” or points”, therefore the

Art Unit: 3622

preamble is not given patentable weight because it doesn't breathe life, meaning to the body of the claims.

With respect to the Official notice taken since Appellant didn't command a response or request of such personal knowledge such as to provide a **proper challenge** that would at least cast reasonable doubt on the fact taken notice of, the Official notice is sustained. See MPEP 2144.03 where In re Boon is mentioned.

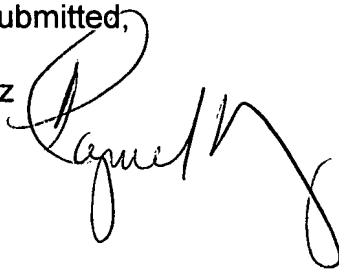
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Raquel Alvarez

A large, stylized handwritten signature in black ink, appearing to read 'Raquel Alvarez'.

Conferees:

Eric Stamber 

Yehdega Retta 